



DOCKET FILE COPY ORIGINAL

RECEIVED

SEP 16 1996

1850 M Street, N.W., Suite 1100
Washington, DC 20036

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

September 16, 1996

William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M St., NW
Washington, D.C. 20554

Re: CC Docket No. 95-116

Dear Mr. Caton:

Attached is the original plus 16 copies of Sprint Corp.'s Reply Comments in the above-captioned proceeding. We have also provided Ms. Wanda Harris of the Competitive Pricing Division with this filing on diskette in WordPerfect 5.1 format.

Sincerely,

A handwritten signature in cursive script that reads "Norina Moy".

Norina Moy
Director, Federal Regulatory
Policy and Coordination

cc: Wanda Harris

No. of Copies rec'd
List A B C D E

7+16

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

SEP 16 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Telephone Number Portability) CC Docket No. 95-116

REPLY COMMENTS

Sprint Corporation, on behalf of Sprint Communications Company, L.P. and the Sprint Local Telephone Companies, hereby respectfully submits its reply to comments filed on August 16, 1996 in the above-captioned docket.

I. INTRODUCTION AND SUMMARY.

In its July 2, 1996 *Further Notice of Proposed Rulemaking* in this proceeding, the Commission sought comment on issues relating to the allocation and recovery of costs associated with a system of permanent local number portability. All parties agreed that whatever cost allocation and recovery mechanisms are adopted must be competitively neutral, in accordance with Section 251(e)(2) of the Telecommunications Act of 1996. Most parties also agreed with the Commission's proposed grouping of the costs associated with permanent number portability into three categories: shared, industry-wide costs; carrier-specific direct costs; and carrier-specific indirect costs. Beyond lip service to these very broad principles, however, there was very little consensus; in fact, commenting parties' interpretations of what is "competitively neutral," and what costs are properly included in each of these three categories, were diametrically opposed. On the one hand were several IXCs and CLECs (including AT&T, MCI, MFS and Tele-

port), which urged that each carrier should be responsible for bearing its own carrier-specific costs associated with local number portability, that exogenous cost treatment for local number portability-related costs not be granted, and that no explicit end user surcharge to recover local number portability costs be allowed. At the other extreme were the BOCs and several other incumbent LECs (ILECs), which asserted that almost every cost even remotely associated with local number portability is a direct Category 2 cost, proposed cost allocation mechanisms which spread as much of the local number portability costs to as many other carriers as possible, and recommended adoption of cost recovery mechanisms which assure full recovery of all of their allocated local number portability costs.

Sprint Corp., which has ILEC, IXC, CMRS, and CLEC interests, presented, largely as a matter of necessity, a moderate approach which balances the legitimate concerns of each of these industry segments. For example, Sprint recommended (pp. 2-3, 9) that carriers bear their own direct costs of implementing local number portability; however, direct costs would be carefully defined to exclude general network upgrades, and carriers would be allowed exogenous cost treatment (or, for non-price cap LECs, an equivalent surcharge-type adjustment) to adjust their local service rates to reflect these direct costs. As discussed further below, this type of balanced approach best serves the public interest.

II. ALLOCATION AND RECOVERY OF SHARED, INDUSTRY-WIDE COSTS.

Commenting parties generally agreed that this category of costs should include all of the costs associated with the development, deployment and administration of shared, regional third-party local number portability databases. However, there is substantial disagreement as to how these shared costs should be allocated.

Several parties propose that the shared SMS costs be recovered, to the extent possible, directly from users of the regional SMS databases.¹ The costs associated with those database services and facilities necessary for call completion and used by a specific, identifiable entity (e.g., downloads, log-on ids, and data ports) should be borne by those specific entities, the cost causers. Costs which are not directly attributable to a specific user would then be allocated among all telecommunications carriers providing local service in an area in which number portability is available. This approach reasonably links cost causation and cost allocation, and is consistent with principles underlying Part 32 rules.

Several other parties advocate allocation of all Category 1 costs on the basis of telecommunications revenues, either gross retail revenues,² or revenues less charges paid to other carri-

¹ See, e.g., Sprint, pp. 5-6; AT&T, pp. 7-9; MCI, p. 4; Pacific, p. 7; California PUC, p. 8; Colorado PUC, p. 6.

² See, e.g., Ameritech, p. 2; Bell Atlantic, p. 2; Nynex, p. 7.

ers.³ However, in contrast to the approach described above, this methodology makes no attempt to recover directly attributable local number portability SMS costs directly from the cost causer. Moreover, use of a revenue-based allocator to recover permanent local number portability costs has serious flaws. It is not at all clear precisely what revenue figure should be used (e.g., local service or all telecommunications services?), or how easy it would be to obtain such information on a regional basis. Nor is it clear that any adjustment to the gross revenue figure is appropriate: subtracting out charges paid to other carriers places the majority of the costs on facilities-based carriers, but including charges paid to other carriers raises the double counting problem described in the *FNPRM* (§213). And, revenues do not necessarily reflect market share or use of the shared database since revenues reflect a mix of differently priced services provided.⁴

To the extent that shared industry costs must be allocated (as opposed to directly assigned), such allocation is best done on the basis of lines or working telephone numbers.⁵ A line-

³ See, e.g., *ALTS*, p. 4; *MFS*, p. 7; *Nextel*, p. 2; *Teleport*, p. 4; *Pacific*, p. 6 (would also deduct payments received from other carriers).

⁴ See, e.g., *Sprint*, pp. 7-8; *MCI*, pp. 6-7.

⁵ See, e.g., *Sprint*, p. 7 (presubscribed local service lines); *MCI*, p. 4 (working telephone numbers in portable NXXs or share of total portable NXXs); *SBC*, p. 7 ("elemental access lines"); *California PUC*, p. 7 (active lines); *GSA*, p. 10 (telephone numbers in ported areas); *Ohio PUC*, p. 1 (total access lines less private lines plus trunk equivalencies).

based allocator is an objective measure of each carrier's market presence. It is far less subject to manipulation than a revenue-based allocator and should be relatively easy to obtain and audit.

III. ALLOCATION AND RECOVERY OF CARRIER-SPECIFIC DIRECT COSTS.

The allocation and recovery of Category 2 costs -- carrier-specific costs directly attributable to implementation of local number portability -- were also the subject of significant disagreement among commenting parties. Parties were divided as to whether these costs should be borne by the carrier which incurs them, or shared by all carriers providing and using number portability; and whether carriers should be allowed to assess an end user surcharge to recover the direct costs incurred by or allocated to them.

Several parties, including Bell Atlantic, BellSouth, Nynex, SBC, CBT and GTE, argue that carrier-specific direct costs should be pooled to ensure that "all carriers...recover[] their eligible costs."⁶ This approach is anti-competitive and should be rejected. As Pacific explained (p. 11), pooling requires some carriers to subsidize others, which is "incompatible with the competitive process and seriously impair[s] incentives to minimize costs." Moreover, there are costs associated with administering a pool, and it is not clear that the North American Numbering Council will be in the position to accept additional

⁶ See BellSouth, p. 8; see also, Bell Atlantic, p. 2; Nynex, p. 9; GTE, pp. 12-13; SBC, p. 10; CBT, p. 11; Nextel, p. 4.

responsibilities relating to the choice of a local number portability pool administrator, as has been suggested by BellSouth, SBC and GTE.

Rather than pooling, carriers should accept responsibility for their own direct costs of implementing permanent local number portability. This is consistent with a competitive marketplace and will encourage efficient network deployment.⁷

Most ILECs -- both those which propose that Category 2 costs be pooled and those which propose that such costs be borne by each individual carrier -- recommended that whatever costs are allocated to or incurred by them be recovered in the form of an end user surcharge.⁸ Several parties also recommended that the surcharge be mandatory and uniform for all LECs in the area so that the local number portability cost recovery mechanism does not distort consumers' choice of a local service provider.

Sprint agrees that carriers should be entitled to recover their direct costs of implementing permanent local number portability. Permanent local number portability capability is statutorily mandated and carriers thus should be given the opportunity to recover the direct costs reasonably incurred to satisfy this mandate. Thus, exogenous cost treatment for the reasonable, carefully defined, direct costs of implementing permanent number

⁷ See, e.g., Sprint, p. 8; AT&T, p. 12; MCI, p. 9; Pacific, p. 11; SBC, p. 9; PCIA, p. 7; Teleport, p. 7; Missouri PUC, p. 4.

⁸ See, e.g., Ameritech, p. 8; Bell Atlantic, p. 8; Nynex, p. 11; Pacific, p. 10; SBC, p. 14; US West, p. 13; California PUC, p. 3; CBT, p. 6; GSA, p. 10; GTE, p. 2;

portability is warranted.⁹ Although Sprint believes that these costs should be recovered from end users, an explicit local number portability surcharge on end users should not be mandated. Some carriers may choose not to recover these costs explicitly, as a way of making their rates more attractive. Although certain ILECs may object to this type of pricing flexibility, it is self-defeating for the Commission to require all carriers to assess an end user charge to prevent end users from "gravitat[ing] to carriers assessing lower charges" (GTE, p. 11) -- one of the major benefits of competition.

IV. ALLOCATION AND RECOVERY OF CARRIER-SPECIFIC INDIRECT COSTS.

Commenting parties generally agreed that Category 3 costs -- carrier-specific costs not directly attributable to implementation of local number portability -- should be considered general network upgrades which are not subject to the local number portability cost recovery mechanism in Section 251(e)(2) of the 1996 Act.¹⁰ Neither exogenous cost treatment nor an end user surcharge is appropriate to recover general network upgrade costs;

⁹ MCI recommended (p. 13) that if permanent local number portability capability is treated as a price cap service, it should be subject to new service tariffing requirements, and should be placed in a separate basket to minimize the likelihood of cross-subsidization with revenues from other rate elements. To the extent that any local number portability costs are allocated to interstate access charges, Sprint concurs in this recommendation.

¹⁰ See, e.g., Sprint, p. 9; AT&T, p. 17; MCI, p. 10; Bell Atlantic, p. 2; Pacific, p. 12; SBC, p. 9; Teleport, p. 9.

instead, they should be recovered endogenously from existing rate elements or from the carrier's shareholders.

Despite their vague support for the idea that indirect costs should not be subject to the cost recovery mechanism referenced in Section 251(e)(2), several ILECs have proposed that any facilities upgrades which are made for the sole purpose of providing permanent local number portability, as well as the lost time value of money associated with advancement of planned network modifications or additions due to local number portability, should be considered a Category 2 direct cost.¹¹ Cincinnati Bell even goes so far as to suggest (p. 3) that the indirect cost category be eliminated, and that a portion of the cost of network upgrades be assigned to the direct cost category, because this approach is "easier." These proposals are without merit.

It is by now well-established that costs not specifically incurred to provide a mandated capability are not eligible for exogenous cost treatment.¹² Allowing an explicit cost recovery element (whether an exogenous cost adjustment or an end user surcharge) for overhead and network upgrade costs only indirectly relating to permanent local number portability constitutes an

¹¹ See, e.g., Ameritech, p. 3; BellSouth, p. 6; Nynex, p. 4; Pacific, p. 8; US West, p. 10; CBT, p. 3.

¹² See *Provision of Access for 800 Service*, 8 FCC Rcd 907, 911 (¶28) (1993). In this order, the Commission specifically stated that it would not grant exogenous cost treatment for "the costs of accelerating SS7 deployment to meet our implementation timetable" (*id.*). This same reasoning should apply here, and the Commission should reject any recommendation that local number portability "advancement costs" be considered exogenous.

unacceptable regression to cost of service regulation. Parties' insistence that they are entitled to full recovery of all costs they incur to implement number portability¹³ is inconsistent with Congress' and the Commission's goal of fostering a competitive local market. In competitive markets, there simply is no guarantee that all service providers will recover all of their costs.

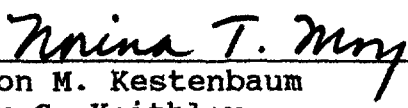
V. CONCLUSION.

For the reasons cited above, Sprint urges the Commission to require that shared, industry-wide costs be directly assigned, where possible, or otherwise allocated on the basis of local service presubscribed lines; to carefully define and grant exogenous cost treatment to carrier-specific direct costs and to allocated shared SMS costs; and to clarify that carrier-specific indirect costs are ineligible for any special recovery mechanism under Section 251(e)(2).

¹³ See, e.g., CBT, p. 6; GTE, p. 12.

Respectfully submitted,

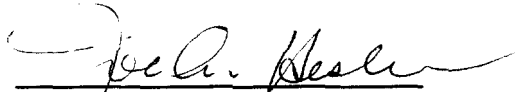
SPRINT CORPORATION


Leon M. Kestenbaum
Jay C. Keithley
Norina T. Moy
1850 M St., N.W., Suite 1110
Washington, D.C. 20036
(202) 857-1030

September 16, 1996

CERTIFICATE OF SERVICE

I, Joan A. Hesler, hereby certify that on this 16th day of September, 1996, a true copy of the foregoing document was served first class mail, postage prepaid, or hand delivered, upon each of the parties listed below.


Joan A. Hesler

Regina Keeney, Chief
Chief, Common Carrier Bureau
Federal Communications Comm.
1919 M Street, N.W.
Room 500
Washington, D.C. 20554

Competitive Pricing Div.
Federal Communications
Commission
1919 M Street, N.W.
Room 518
Washington, D.C. 20554

Matthew Harthun
Policy Division
Federal Communications Comm.
Room 544
1919 M Street, N.W.
Washington, D.C. 20554

Intern'l Transcription
Service
1919 M Street, N.W.
Washington, D.C. 20554

Mark Golden
PCIA
500 Montgomery Street
Suite 700
Alexandria, VA 22314

Thomas Taylor
CBT
201 East 4th Street
Cincinnati, OH 45202

James Blaszak
Levin, Blaszak, Block
& Boothby
1300 Connecticut Ave., N.W.
Washington, D.C. 20036

Anthony Marquez
Colorado PUC
1580 Logan Street
Office Level 2
Denver, CO 80203

Carl Northrop
Christine Crowe
Paul, Hastings, Janofsky
& Walker
1299 Pennsylvania Ave., N.W.

Michael Shortley
Frontier Corporation
180 S. Clinton Avenue
Rochester, NY 14646

Virginia Taylor
California Dept. of Consumer
Affairs
400 R Street, N.W., Suite 3090
Sacramento, CA 95814

David Irwin
Irwin, Campbell &
Tannenwald
1730 Rhode Island Ave.
Suite 200
Washington, D.C. 20036

Mark O'Connor
Piper & Marbury
1200 19th Street, N.W.
7th Floor
NW
Washington, D.C. 20036

David Cosson
Marie Guillory
NTCA
2626 Pennsylvania Ave.,
Washington, D.C. 20037

Susan Drombetta
Scherers Communications Group
575 Scherers Court
Worthington, OH 43085

Brian Conboy
Sue Blumenfeld
Thomas Jones
Wilkie Farr & Gallagher
1155 21st Street, N.W.
Washington, D.C. 20036

Charles Hunter
Kevin DiLallo
Hunter & Mow
1620 I Street, N.W.
Suite 701
Washington, D.C. 20006

Teresa Marrero
Teleport Communications
2 Teleport Drive
Suite 300
Staten Island, NY 10311

Mary McDermott
Linda Kent
Charles Cosson
USTA
1401 H Street, N.W.
Suite 600
Washington, D.C. 20005

Campbell Ayling
NYNEX
1111 Westchester Avenue
White Plains, NY 10604

Marlen Ard
Nancy Woolf
Pacific Bell
140 New Montgomery Street

John Goodman
Bell Atlantic
1133 20th Street, N.W.
Washington, D.C. 20036

Dana Fix
Katherine Rolph
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007
60196

Larry Peck
Frank Panek
Ameritech
Room 4H86
2000 W. Ameritech Ctr.Dr.
Hoffman Estates, IL

James Ellis
Robert Lynch
SBC Communications
175 East Houston
Room 1254
N.E.
San Antonio, TX 78205

Robert Sutherland
Richard Sbaratta
BellSouth
Suite 1700
1155 Peachtree Street,
Atlanta, GA 30309

Dan Poole
Jeffrey Bork
U S West
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036

Mark Rosenblum
Roy Hoffinger
Clifford Williams
AT&T
Room 3252I1
295 No. Maple Avenue
Basking Ridge, NJ 07920

Richard Metzger
ALTS
1200 19th Street, N.W.
Suite 560
Washington, D.C. 20036

Mary Mack Adu
California PUC
505 Van Ness Avenue
San Francisco, CA 94102

Cynthia Miller
Florida PSC
2540 Shumard Oak Blvd.
Room 301
N.W.
Gelrald L. Gunter Bldg.
Tallahassee, FL 32399

Michael Altschul
Randall Coleman
CTIA
1250 Connecticut Ave.,
Suite 200
Washington, D.C. 20036

Emily Hewitt
Michael Ettner
GSA
18th and F Streets, N.W.
Room 4002
Washington, D.C. 20405

Gail Polivy
GTE
1850 M Street, N.W.
Washington, D.C. 20036

Mary Keregianes
Illinois Commerce Commission
160 No. LaSalle
Chicago, IL 60601

Loretta Garcia
Donald Elardo
MCI
1801 Penn. Ave., NW
Washington, D.C. 20006

Andrew Lipman
Erin Reilly
Swidler & Berlin
3000 K Street, N.W.
Washington, D.C. 20007

Eric Witte
Missouri PUC
P.O. Box 360
Jefferson City, MO 65102

Maureen Helmer
NYS DPS
3 Empire State Plaza
N.W.
Albany, NY 12223

Robert Roosaner
Nextel Communications
800 Connecticut Ave.,
Suite 10001
Washington, D.C. 20006